

REMARKS

This paper is submitted in response to the Office Action for the above-identified application mailed 18 March 2008.

In the Office Action, the claims were subjected to a number of non-statutory obvious-type double patenting rejections. The claims were further rejected under 35 U.S.C. Sec 102 for being disclosed by Rexroth, U.S. Patent No. 5,269,794.

Initially under cover of this Response, Claims 102, 107, 108, 118 and 121 are amended. These amendments are solely for editorial reasons. For reasons discussed below, it should be apparent that these amendments are not made in view of the prior art.

With regard to the double patenting rejection, the Applicants disagree with the contention that the invention of this application is not patentably distinct from the invention disclosed in their U.S. Patents No. 6,017,354, No. 6,090,123, No. 6,329,778 and No. 6,752,816. None of these patents contain claims directed that, like the claims of the current application, are directed to a surgical tool system with a control console with plural sockets to which plural surgical handpieces are simultaneously attached. A control console with a single socket is all that is required to practice the inventions recited by the claims of the issued patents. One could practice the invention of the issued patents without practicing the invention as recited by the claims of the present applicants. Thus, the claims of the present application are directed to an invention that is distinct from the invention defined by the earlier patents.

The *Manual of Patent Examining Procedure*, Sec. 804, states that a double patenting rejection is appropriate only if the inventions are "not patentably distinct" from each other. Accordingly, it is respectfully submitted that present application should be subjected to this rejection.

Nevertheless, solely to expedite allowance of this application, the Applicants will submit Terminal Disclaims with regard to the four (4) patents against which the double patenting rejections were lodged. The Applicants respectfully request that they be allowed to delay submitting the Terminal Disclaimers until the other matters giving rise to the outstanding Office Action are resolved.

Thus, should the Examiner reach the conclusion that this Application is condition for allowance for all matters other than the filing of the Terminal Disclaimers, it is requested that he inform the undersigned representative by telephone of the status of the application. Such a telephone call will result in the prompt filing of the Terminal Disclaimers.

The 35 U.S.C. Sec. 102 rejection is now considered.

The Office Action states that this rejection is based on the position that Rexroth discloses "a console having a plurality of sockets for" removable connection to handpieces and "a control unit connected to the sockets for reading data in the handpiece memories."¹

Rexroth has been carefully reviewed. Rexroth merely states that its handpiece cable 12:

[T]erminates at one end in a plural-conductor connector (not shown) that is received in a receptacle

¹ 18 June 2008 Office Action, Detailed Action, pages 4-5.

(not shown) secured at the rear or side of console 10.²

Nowhere in the Detailed Description does Rexroth disclose providing plural connectors that would allow plural handpieces to simultaneously be connected to his console.

Rexroth's drawings similarly only disclose a single receptacle, header J2, for receiving the handpiece cable. Header J2 is illustrated twice in Rexroth's drawings, in Figures 18B and 23B. In Figure 18B, the relevant portion of which is reproduced below, the connections established through header J2 are shown as establishing the conductive paths between the on handpiece switch assembly and processor U16.

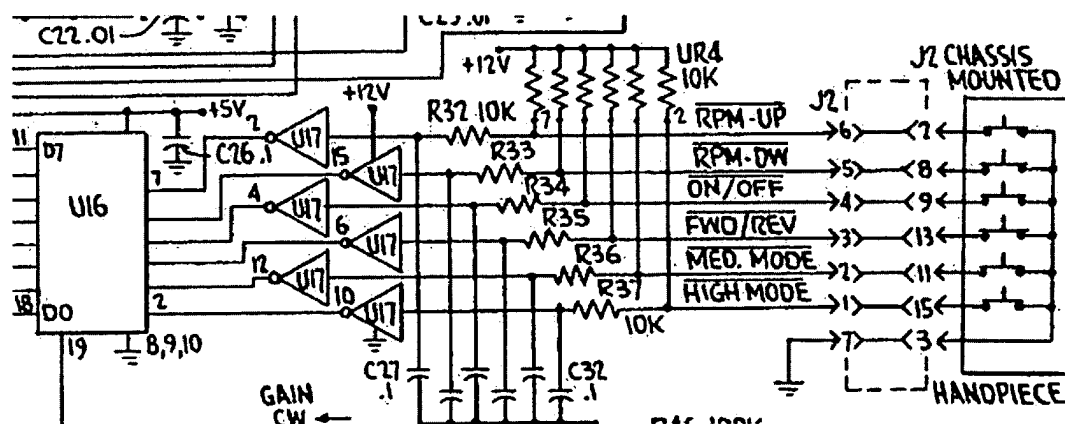


Figure 1. Portion of Figure 18B from Pat. No. 5,269,794 showing a section of the single header J2 (right side of Figure) establishing control signal connections from a single handpiece to the console controller U16.

In Figure 23B, the relevant portion of which is reproduced below as Figure 2, the single header J2 also provides the

² U.S. Patent No. 5,269,794, column 5, lines 3-6.

windings and Hall sensor connections between the console and the handpiece.

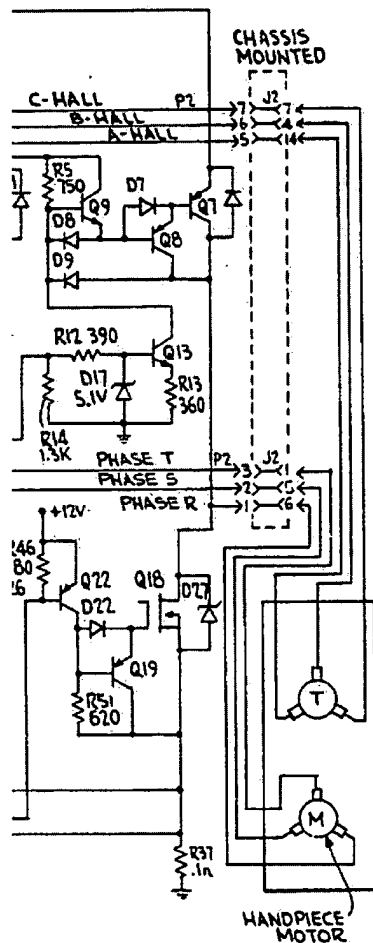


Figure 2. Portion of Figure 23B from Pat. No. 52,269,794 showing the section of the single header J2 that establishes motor winding and sensor connections.

In the parts list, Rexroth similarly only discloses a single J2 header for establishing a connection to a single handpiece.³ While the parts list also includes a receptacle J3, Figure 18B indicates this is merely the component for receiving the cable from the footswitch.

Thus, neither Rexroth's description nor its drawings nor its parts list provide any indication that it is directed to anything other than a conventional surgical tool system with a console that has a single socket which at any given time, can accept only a single handpiece.

The claimed console, in contrast, includes a plurality of sockets to enable a plurality of handpieces to be simultaneously be connected to the console. Still another feature of the claimed system is that the console simultaneously stores the data from the memories of the plural handpieces. This makes each of these handpieces immediately available for use. The claimed system thus makes a plurality of handpieces available for use by practitioner without the expense of requiring a separate console for each handpiece.

Rexroth simply does not suggest a system having either the features or benefits of Applicants claimed surgical tool system. Accordingly, it is respectfully submitted that the claims are directed to an invention that is a non-obvious departure from the prior art.

³ U.S. Patent No. 5,269,794, col. 19, line 48.

App. No. 10/776,014
June 18, 2008 Response
page 19

Accordingly, the Applicants respectfully request that the prior art rejection be withdrawn. The Examiner is requested to contact the undersigned representative so arrangements can be made to file the Terminal Disclaimers that are required in order for this application to proceed to allowance.

Respectfully submitted,

June 18, 2008

/David S. Goldenberg/
David S. Goldenberg
Reg. No. 31,257
Cust. No. 51017
STRYKER CORPORATION
INTEL PROP./RND
4100 EAST MILHAM AVE
KALAMAZOO, MI 49001-6197
V 269.323.7700
F 269.323.2340